

PETITION

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application Ser. No.:10/506,405 Group Art Unit 2879

Filing Date: 09/01/2004 Examiner: N.E. WALFORD

Attorney Docket Number PH-DE 020055 Confirmation No.: 3399

Inventor Name(s): KRAUS & BACHMAN

Title: LIGHT SOURCE

Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

PETITION

Sir:

Applicants hereby petition from the finality of the office action.

The Examiner states that the new ground for rejection is due to Applicants' IDS. However, the art on the IDS was from the international search report. This IDS was only submitted as a formality so that the Examiner could make the art of record. Given that this is a PCT application, the PCT/DO/EO/903 form indicates that the international search report was received, and the reference in question was a US patent, the Examiner should previously have considered Harding in accordance

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with MPEP 609.03. Making art from the international search report of record should not be grounds for issuing a final office action.

In addition, in this office action, the Examiner raises formal issues with respect to claim 2. These issues could have been raised in the first action, but were not.

Applicants would like to present the objected to limitations as new claims 14 and 15, as shown in the response under rule 116. The Examiner will no doubt object to the addition of two new claims, saying that they require additional consideration and search, even though the limitations were in original claim 2. Applicants will therefore be deprived of the right to add these claims, which might perfectly easily have been added in response to the first office action. Applicants therefore respectfully request withdrawal of the finality of the office action so that these new claims can be entered; and moreover so that Applicants may have the option of adding new claims or amending claims in response to any rejection.

Reissuance of the office action in non-final form is accordingly respectfully requested.

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Applicants respectfully submit that no fees should be due as a result of this petition, because the petition was necessitated by Examiner error. However, should any fees other than the issue fee be due, they may be charged to deposit account 14-1270.

Respectfully submitted,

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